

# LEASON ELLIS

December 19, 2011

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Reference No.: 03511/606201-000

Paul Fields  
Of Counsel  
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## VIA ECF & COURIER

Hon. Frederic Block  
United States District Judge  
Eastern District of New York  
United States Courthouse  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: Vaad L'Hafotzas Sichos, Inc. v. Kehot Publication Society, et al.  
Civil Action No. 10-CV-4976 (FB)(JO)

Dear Judge Block:

On 17 November 2011 the parties filed with your Honor their schedule in connection with the mutual filings of Motions for Summary Judgment. That schedule required that the cross-motions for summary judgment were to be served on opposing parties on 15 December 2011. Accordingly, the parties did serve their motions on that date. However, Defendant/Counterclaimant Merkos' Rule 56.1 Statement (copy attached) is woefully inadequate, does not comport with the requirements of the Local Rules of this Court, makes it impossible for Vaad to reply to the same as required by the Rules, and Vaad severely prejudiced thereby since the opposition papers are due 12 January 2012 and Vaad cannot reply to Merkos' Rule 56.1 Statement. While Merkos' Memorandum does contain references to the record, for the most part Vaad has to guess at what the uncontested fact is and, in any case, the whole purpose of Rule 56.1 is to present the parties with numbered statements which can either be admitted or denied.

Local Rule 56.1, in pertinent part, requires a

....short and concise statement, in numbered paragraphs of the material facts to which the moving party contends there is no genuine issue to be tried. Failure to submit such a statement may constitute grounds for denial of the motion.

By letter dated 15 December 2011, Vaad requested that Merkos provide a Rule 56.1 Statement as required by the Local Rules. To date, Merkos has not replied to that request and as noted, the time for Vaad to oppose Merkos' motion is ticking away. Accordingly, Vaad requests this Pre-Motion Conference in advance of making a Motion to Strike Merkos' Motion for Partial Summary Judgment.

Respectfully submitted,



Paul Fields

PF/to

# LEASON ELLIS

December 15, 2011

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Reference No.: 03511/606201-000

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**VIA EMAIL & FIRST CLASS MAIL**

J. Christopher Jensen, Esq.  
Cowan, Liebowitz & Latman  
1133 Avenue of the Americas  
New York, NY 10036

Re: Vaad L'Hafotzas Sichos, Inc. v. Kehot Publication Society, et al.  
Civil Action No. 10-CV-4976 (FB)(JO)

Dear Chris:

I am in receipt of the materials which you served via email and in particular, your Rule 56.1 Statement in connection with Merkos' Motion for Partial Summary Judgement. I object to the same as not being in accordance with the requirements of Local Rule 56.1 which requires a

...short and concise statement, in numbered paragraphs, of the material facts to which the moving party contends there is no genuine issue to be tried. Failure to submit such a statement may constitute grounds for denial of the Motion. We are obviously severely prejudiced by your failure to provide such Statement since you are essentially leaving it up to us to guess what your undisputed facts are and then make a decision as to whether they are, in fact, undisputed.

We therefore demand that we immediately receive such statement in accordance with the Local Rules. To the extent that there is any delay, we request that you agree to extend our period for filing our opposition papers by the period of delay. I do hope we can accomplish this informally without the need for Court intervention.

Sincerely,



Paul Fields

PF/to

J. Christopher Jensen (jcj@cll.com)  
COWAN, LIEBOWITZ & LATMAN, P.C.  
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Attorneys for Defendant  
KEHOT PUBLICATION SOCIETY, a division of  
MERKOS L'INYONEI CHINUCH, INC.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
VAAD L'HAFOTZAS SICHOS, INC.

Civil Action No. 10 Civ. 4976 (FB)(JO)

Plaintiff,

-against-

**DEFENDANT'S RULE 56.1**  
**STATEMENT**

KEHOT PUBLICATION SOCIETY, a division of  
MERKOS L'INYONEI CHINUCH, INC.

Defendant,

and

ZALMAN CHANIN,

Additional  
Counterclaim  
Defendant.

-----x

Pursuant to Local Civil Rule 56.1, Defendant Merkos L'Inyonei Chinuch, Inc. ("Merkos" or "Defendant") respectfully submits this statement of undisputed material facts in support of its Motion for Partial Summary Judgment against Plaintiff Vaad L'Hafotzas Sichos, Inc. ("Vaad" or "Plaintiff"), affirming the August 30, 2010 Order of the United States Trademark Trial and Appeal Board (the "TTAB") of the United States Patent and Trademark Office and dismissing Plaintiff's Complaint with prejudice.

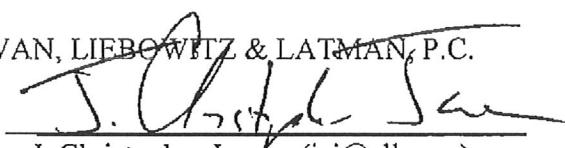
1. The substantial evidence supporting the TTAB's August 30, 2010 Order, which

dismissed, after trial, Vaad's Opposition No. 91156051 against Merkos's Application Serial No. 76/314,502 to register the KEHOT Logo, is contained in the administrative trial record of the TTAB, which is annexed as Exhibits A – Y to the accompanying declaration of J. Christopher Jensen, Esq., dated December 15, 2011.

Dated: New York, New York  
December 15, 2011

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.

By: 

J. Christopher Jensen ([jcj@cll.com](mailto:jcj@cll.com))

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